IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

OP.No. 22317 of 1997(F)

PETITIONER:

T.K.KUNJUMON,
CLASS IV EMLOYEE,
FISHERIES COLLEGE,
PANANGAD.

BY ADV. SRI.K.P.DANDAPANI

RESPONDENTS:
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1. **KERALA AGRICULTURAL UNIVERSITY,**
   VELANIKKARA, THRISSUR,
   REPRESENTED BY ITS REGISTRAR.

2. **SHRI.V.KRISHNAMURTHY,**
   VICE – CHANCELLOR (IN-CHARGE),
   KERALA AGRICULTURAL UNIVERSITY & AGRICULTURAL PRODUCTION COMMISSIONER, GOVERNMENT OF KERALA,
   GOVT.SECRETARIAT, THIRUVANANTHAPURAM.

3. **STATE OF KERALA,**
   REPRESENTED BY SECRETARY TO GOVERNMENT,
   AGRICULTURE (FARMS) DEPARTMENT,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

BY ADV. SRI.N.D.PREMACHANDRAN, SC, AGRL.UNTY. For R1 & R2

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 18/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.40071/1997 IN O.P.NO.22317/1997 F

CLOSED

18/06/2007 **SD/-THOTTATHIL B.RADHAKRISHNAN,**
J U D G E.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE ORDER NO.GA/B2/29180/93 DTD. 30/07/93 ISSUED BY THE REGISTRAR.**

EXT.P2: **COPY OF THE NOTE FORWARD TO THE EXECUTIVE COMMITTEE BY THE REGISTRAR.**

EXT.P3: **COPY OF THE ORDER NO.GA/B2/18584/96 DTD. 18/07/96 ISSUED BY THE REGISTRAR.**

EXT.P4: **COPY OF THE CIRCULAR NO.GA/J2/22106/96 DTD. 20/07/96 ISSUED BY THE 1ST RESPONDENT.**

EXT.P5: **COPY OF THE ORDER NO.GA/J2/22106/96 DTD. 30/10/96 ISSUED BY THE SR.DEPUTY REGISTRAR (ADMN).**

EXT.P6: **COPY OF ORDER NO.F1-5201/96 DTD. 7/11/96 ISSUED BY DEAN FOR KAU.**

EXT.P7: **COPY OF THE ORDER NO.(MS) 350/96/AD. DTD. 15/11/96 ISSUED BY 3RD RESPONDENT.**

EXT.P8: **COPY OF THE NOTICE DTD. 15/05/1997 ISSUED BY SECRETARY TO COMMN. FOR KERALA AGRL.UNIVERSITY.**

EXT.P9: **COPY OF THE FORWARDING LETTER ISSUED BY THE REGISTRAR FOR KAU.**

EXT.P10: **COPY OF THE DETAILED EXPLANATION DTD. 31/05/97 SUBMITTED BY THE PETITIONER.**

EXT.P11: **COPY OF THE NOTICE NO.GA/B2/38809/97 DTD. 16/10/97 ISSUED BY THE REGISTRAR TO THE PETITIONER.**

EXT.P12: **COPY OF REPORT NO.III OF THE RETIRED JUSTICE BHASKARAN NAMBIAR COMMISSION.**

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EXT.P13: **COPY OF THE LETTER NO.36570/AF2/97/AD. DTD. NIL ISSUED BY 3RD RESPONDENT TO THE 1ST RESPONDENT WITH COPY TO THE PETITIONER.**

EXT.P14: **COPY OF THE LETTER NO.GA/B2/388097/97 DTD. 31/10/97 ISSUED BY THE 1ST RESPONDENT TO THE DEAN IN-CHARGE.**

EXT.P15: **COPY OF LETTER DTD. 6/11/97 ISSUED BY THE PETITIONER TO THE 1ST RESPONDENT.**

EXT.P16: **COPY OF ORDER NO.GA/B2/38809/97 DTD. 21/11/1997 ISSUED BY THE 1ST RESPONDENT FOR KERALA AGRL.UNIVERSITY.**

/TRUE COPY/

KSS

THOTTATHIL B. RADHAKRISHNAN, J.

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Dated this the 18th day of June, 2007

J U D G M E N T

Petitioner's appointment in the Kerala Agricultural University has been found to be a product of favouritism, nepotism and every bad element possible in an administration. He was initially in the residence of the Vice Chancellor and moved in as a Peon and, thereafter, he was placed as Laboratory Assistant and regularised.

2. Mr.Justice V.Bhaskaran Nambiar, who was appointed to look into the irregularities in the Kerala Agricultural University, made a report, which was accepted by the Government. That report specifically deals with the petitioner's case as one of the instances of administrative high handedness, favouritism etc.

3. In W.A.No.2201/1998 and connected cases, this Court, while dismissing a batch of writ appeals etc., concluded that it

was open to the University to take action against such appointments. In doing so, the charges levelled against the reliability of the report of Mr.Justice Nambiar were turned down.

4. The learned counsel for the petitioner, however, relied on the judgment of this Court in O.P.No.570/1998 and W.A.No.3601/2001, wherein this Court noticed that the action taken on the basis of the aforesaid report was not in consonance with the relevant statute that governed the institution. That was an instance of a Professor in service and the question involved was as to whether the Commission had rightly concluded on the sustainability or otherwise of a promotion given to that Professor. In the realm of adjudicating an issue as to promotion, qua the findings of the Commission as to corruption and nepotism, this Court held that the employee involved in that case was not liable to be proceeded against, on the basis of the report. I find no persuasion to accept the decision in that case, namely that of Dr.P.C.Mathew, Professor, Head of Department of Corporation, Banking and Management, in preference to the decision of the Division Bench in W.A.No.2201/1998, which

applies directly to the case in hand. The question of consideration of the applicability of Section 8 of the Kerala Agricultural University does not, therefore, really come into play to save the petitioner in this case.

Original petition fails and the same is, accordingly, dismissed.

THOTTATHIL B.RADHAKRISHNAN
Judge

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THOTTATHIL B. RADHAKRISHNAN, J.

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J U D G M E N T

18th June, 2007